No. 24-11996

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

JANE DOE, et al.,

Plaintiffs-Appellees,

v.

SURGEON GENERAL, STATE OF FLORIDA, et al.,

Defendants-Appellants.

On appeal from the United States District Court for the Northern District of Florida, No. 4:23-cv-00114-RH

BRIEF OF *AMICI CURIAE* AMERICAN ACADEMY OF PEDIATRICS AND ADDITIONAL NATIONAL AND STATE MEDICAL AND MENTAL HEALTH ORGANIZATIONS IN SUPPORT OF APPELLEES

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Jane Doe et al., v. Surgeon General, State of Florida et al.,

No. 24-11996

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Per Federal Rule of Appellate Procure 26.1 and Eleventh Circuit Rule 26.1, Amici certify that the following have an interest in the outcome of this case:

1. Abdul-Latif, Hussein, *Amicus*
2. Academic Pediatric Association, *Amicus*
3. Ackerman, Scot, *Defendant*
4. Ahmed, Aziza, *Amicus*
5. Alstott, Anne, *Amicus*
6. American Academy of Child and Adolescent Psychiatry, *Amicus*
7. American Academy of Family Physicians, *Amicus*
8. American Academy of Nursing, *Amicus*
9. American Academy of Pediatrics, *Amicus*
10. American Association of Physicians for Human Rights, Inc., *Amicus*
11. American College of Obstetricians and Gynecologists, *Amicus*
12. American College of Osteopathic Pediatricians, *Amicus*
13. American College of Physicians, *Amicus*
14. American Medical Association, *Amicus*
15. American Pediatric Society, *Amicus*
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18. Archer, Phil, *Former Defendant*

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21. Association of Medical School Pediatric Department Chairs, Inc., *Amicus*

22. Baker, Kellan, *Dekker Witness*

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24. Barsoum, Wael, *Defendant*

25. Bartlett, Bruce, *Former Defendant*

26. Basford, Larry, *Former Defendant*

27. Beato, Michael, *Counsel for Defendants*

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[i] Pursuant to the District Court Final Order (Doc. 223, at 2-3), the record in this case also relies on the "evidence presented during the trial of a separate case in this court with overlapping issues, *Dekker v. Weida,* No. 4:22cv325-RH-MAF." Thus, the witnesses in the *Dekker* case are included in this CIP. The *Dekker* case is on appeal in this Court. 23-12155.

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40. Cantor, James, *Dekker Witness*

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55. Di Pietro, Tiffany, *Defendant*

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57. Doe, Jane, *Plaintiff*

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59. Doe, Jane, *Dekker Plaintiff*

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190. Williams, Gregory, *Defendant*

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194. Zachariah, Zachariah, *Defendant*

195. Zanga, Joseph, *Dekker Witness*

Pursuant to Federal Rule of Appellate Procedure 26.1, the undersigned counsel for the American Academy of Pediatrics ("AAP"), the Academic Pediatric Association, the American Academy of Child & Adolescent Psychiatry ("AACAP"), the American Academy of Family Physicians ("AAFP"), the American Academy of Nursing ("AAN"), the American Association of Physicians for Human Rights, Inc. d/b/a GLMA: Health Professionals Advancing LGBTQ+ Equality ("GLMA"), the American College of Obstetricians and Gynecologists ("ACOG"), the American College of Osteopathic Pediatricians ("ACOP"), the American College of Physicians ("ACP"), the American Medical Association ("AMA"), the Association of American Medical Colleges ("AAMC"), Association of Medical School Pediatric Department Chairs, Inc. ("AMSPDC"), the Endocrine Society ("ES"), the Florida Chapter of the American Academy of Pediatrics ("FCAAP"), the National Association of Pediatric Nurse Practitioners ("NAPNAP"), the Pediatric Endocrine Society ("PES"), the Societies for Pediatric Urology ("SPU"), the Society for Adolescent Health and Medicine ("SAHM"), the Society for Pediatric Research ("SPR"), the Society of Pediatric Nurses ("SPN"), and the World Professional

Association for Transgender Health ("WPATH") (collectively, "*amici*") certify that:

1. AAP, the Academic Pediatric Association, AACAP, AAFP, AAN, GLMA, ACOG, ACOP, ACP, AAMC, AMA, AMSPDC, ES, FCAAP, NAPNAP, PES, SPU, SAHM, SPR, SPN, and WPATH, respectively, have no parent corporation.

2. No corporations hold any stock in AAP, the Academic Pediatric Association, AACAP, AAFP, AAN, GLMA, ACOG, ACOP, ACP, AAMC, AMA, AMSPDC, ES, FCAAP, NAPNAP, PES, SPU, SAHM, SPR, SPN, and WPATH.

Per Eleventh Circuit Rule 26.1-2(c), Amici certify that the CIP contained herein is complete.

Date: August 5, 2024

s/ Cortlin H. Lannin
Cortlin H. Lannin
Counsel for Amici Curiae

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STATEMENT OF INTEREST OF *AMICI CURIAE*

Amici are professional medical and mental health organizations seeking to ensure that all adolescents, including those with gender dysphoria, receive the optimal medical and mental health care they need and deserve. *Amici* represent thousands of healthcare providers who have specific expertise with the issues raised in this brief. The Court should consider *amici*'s brief because it provides important expertise and addresses misstatements about the treatment for transgender adolescents.[1]

[1] All parties consent to the filing of this brief. *Amici* affirm that no person other than *amici*, their staff, or their counsel made any monetary contributions intended to fund the preparation or submission of this brief.

SUMMARY OF THE ARGUMENT

Rules 64B8-9.019 and 64B15-14.014 of the Florida Administrative Code (the "Healthcare Ban"), prohibit healthcare providers from providing patients under 18 with critical, medically necessary, evidence-based treatments for gender dysphoria. Denying such evidence-based medical care to adolescents who meet the requisite medical criteria puts them at risk of significant harm. Below, *amici* provide the Court with a brief description of the relevant treatment guidelines and summarize the scientific evidence supporting the medical interventions prohibited by the Healthcare Ban for adolescents.[2]

Gender dysphoria is a clinical condition that is marked by distress due to an incongruence between the patient's gender identity (i.e., the innate sense of oneself as being a particular gender) and sex assigned at birth. This incongruence can lead to clinically significant distress and impair functioning in many aspects of the patient's life.[3] If not treated, or treated improperly, gender dysphoria can result in

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[2] In this brief, the term "gender-affirming medical care" refers to the use of gonadotropin-releasing hormone (GnRH) analogues and/or hormone therapy to treat gender dysphoria. Because this brief focuses primarily on adolescents, it does not discuss surgeries that are typically available to transgender adults.

[3] *See, e.g.*, Jason Rafferty, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142(4) PEDIATRICS e20182162, at 2–3 tbl.1 (2018) [hereinafter, "AAP Policy Statement"], https://perma.cc/DB5G-PG44. The American Academy of Pediatrics recently voted to reaffirm the AAP Policy Statement. *See* Alyson Sulaski Wyckoff, *AAP Reaffirms* (continued…)

debilitating anxiety, depression, and self-harm, and is associated with higher rates of suicide. As such, the effective treatment of gender dysphoria saves lives.

The widely accepted recommendation of the medical community, including that of the respected professional organizations participating here as *amici*, is that the well-accepted protocol for treating gender dysphoria is "gender-affirming care."[4] Gender-affirming care is care that supports an individual with gender dysphoria as they explore their gender identity—in contrast with efforts to change the individual's gender identity to match their sex assigned at birth, which are known to be ineffective and harmful.[5] For adolescents with persistent gender dysphoria that worsens with the onset of puberty, gender-affirming care may include medical care to align their physiology with their gender identity. Empirical evidence indicates that gender-affirming care, including gender-affirming medical care provided to carefully evaluated patients who meet diagnostic criteria, can alleviate clinically significant distress and lead to significant improvements in the mental health and

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Gender-Affirming Care Policy, Authorizes Systematic Review of Evidence to Guide Update, AAP NEWS (Aug. 4, 2023), https://perma.cc/XS4B-WBLH. AAP's review and reaffirmation were undertaken as part of its normal procedures to perform such reviews on a five-year basis.

[4] AAP Policy Statement, *supra* note 3, at 10.

[5] *See, e.g.*, Christy Mallory et al., *Conversion Therapy and LGBT Youth*, WILLIAMS INST. (2019), https://perma.cc/HXY3-UX2J.

overall well-being of adolescents with gender dysphoria.[6]

The Healthcare Ban disregards this medical evidence by precluding healthcare providers from providing adolescent patients with treatments for gender dysphoria in accordance with the well-accepted protocol. Granting Appellants' Motion for Stay would permit the Healthcare Ban to go into effect and thus deny adolescents with gender dysphoria the medically necessary, evidence-based treatments they need, putting them at risk of significant harm. Accordingly, *amici* urge this Court to deny Appellants' Motion for Stay.

ARGUMENT

I. Understanding Gender Identity and Gender Dysphoria.

A person's gender identity is a person's deep internal sense of belonging to a particular gender.[7] Transgender people have a gender identity that does not align with their sex assigned at birth.[8] In the United States, it is estimated that approximately 1.4 million individuals are transgender,[9] of which approximately

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[6] *See* Simona Martin et al., *Criminalization of Gender-Affirming Care—Interfering with Essential Treatment for Transgender Children and Adolescents*, 385 NEW ENG. J. MED. 579, 580 (2021), https://perma.cc/BR4F-YLZS (providing an overview of the scientific basis underlying gender-affirming care and its demonstrated effectiveness in "alleviat[ing] gender dysphoria").

[7] AAP Policy Statement, *supra* note 3, at 2 tbl.1.

[8] *See id.* at 832.

[9] *See* Jody L. Herman et al., *Ages of Individuals Who Identify as Transgender in the United States*, Williams Inst., Jan. 2017, at 2, https://perma.cc/C4TA-NR25.

10% are teenagers aged 13 to 17.[10]

Today, there is an increasing understanding that being transgender is a normal variation of human identity.[11] However, many transgender people suffer from gender dysphoria, a serious medical condition in which the patient experiences significant distress that can lead to "impairment in peer and/or family relationships, school performance, or other aspects of their life."[12] Gender dysphoria is a formal diagnosis under the American Psychiatric Association's Diagnostic and Statistical Manual (DSM-5-TR).[13] Adolescents with gender dysphoria are not expected to identify later as their sex assigned at birth.[14]

If untreated or inadequately treated, gender dysphoria can cause depression, anxiety, self-harm, and suicidality.[15] Indeed, over 60% of transgender adolescents

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[10] *See id.* at 3.

[11] James L. Madara, *AMA to States: Stop Interfering in Healthcare of Transgender Children*, AM. MED. ASS'N (Apr. 26, 2021), https://perma.cc/BKS6-QFQ8; *see also* Am. Psychological Ass'n, *APA Resolution on Gender Identity Change Efforts*, Feb. 2021, at 4, https://perma.cc/M22K-PBUZ.

[12] AAP Policy Statement, *supra* note 3, at 3.

[13] *See* AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS: DSM-5-TR AT 512–13 (2022).

[14] *See, e.g.*, Stewart L. Adelson, *Practice Parameter on Gay, Lesbian, or Bisexual Sexual Orientation, Gender Nonconformity, and Gender Discordance in Children and Adolescents*, 51 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 957, 964 (2020), https://pubmed.ncbi.nlm.nih.gov/22917211

[15] *See* Brayden N. Kameg & Donna G. Nativio, *Gender Dysphoria In Youth: An* (continued…)

and young adults reported having engaged in self-harm during the preceding 12 months, and over 75% reported symptoms of generalized anxiety disorder in the preceding two weeks.[16] Even more troubling, more than 50% of this population reported having seriously considered attempting suicide,[17] and more than one in three transgender adolescents reported having attempted suicide in the preceding 12 months.[18]

II. The Widely Accepted Guidelines for Treating Adolescents with Gender Dysphoria Provide for Gender-Affirming Medical Care When Indicated.

The widely accepted view of the professional medical community is that gender-affirming care is the appropriate treatment for gender dysphoria and that, for some adolescents, gender-affirming medical care is necessary.[19] This care greatly reduces the negative physical and mental health consequences that result when

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Overview For Primary Care Providers, 30 J. AM. ASSOC. NURSE PRAC. 493 (2018), https://pubmed.ncbi.nlm.nih.gov/30095668.

[16] *See* Amit Paley, *The Trevor Project 2020 National Survey*, at 1, https://perma.cc/JB6T-49XF.

[17] *See id*. at 2.

[18] *See* Michelle M. Johns et al., Centers for Disease Control & Prevention, U.S. Dep't of Health and Human Servs., *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students–19 States and Large Urban School Districts*, *2017*, 68 MORBIDITY & MORTALITY WKLY. REP. 67, 70 (2019), https://perma.cc/7ZKM-F4SS.

[19] *See, e.g.*, ENDOCRINE SOC'Y, TRANSGENDER HEALTH: AN ENDOCRINE SOCIETY POSITION STATEMENT (2020), https://perma.cc/7L4P-VWME.

gender dysphoria is untreated.[20]

A. The Gender Dysphoria Treatment Guidelines Include Thorough Mental Health Assessments and, for Some Adolescents, Gender-Affirming Medical Care.

The treatment protocols for gender dysphoria are laid out in established, evidence-based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons, and (ii) the WPATH Standards of Care for the Health of Transgender and Gender-Diverse People (together, the "Guidelines").[21] The Guidelines have been developed by expert clinicians and researchers who have worked with patients with gender dysphoria for many years.

The Guidelines provide that all youth with gender dysphoria should be evaluated, diagnosed, and treated by a qualified health care professional ("HCP").[22] Further, the Guidelines provide that each patient who receives gender-affirming care should receive only evidence-based, medically necessary, and appropriate care that

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[20] *See id.*

[21] Wylie C. Hembree et al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons*, 102 J. CLINICAL ENDOCRINOLOGY & METABOLISM 3869 (2017) [hereinafter, "Endocrine Soc'y Guidelines"], https://perma.cc/34KY-2LDF; Eli Coleman et al., *Standards of Care for the Health of Transgender and Gender Diverse People* 23 INT'L J. TRANSGENDER HEALTH S1 (8th ed. 2022) [hereinafter, "WPATH Guidelines"], https://perma.cc/7SU3-RPK9.

[22] Endocrine Soc'y Guidelines, *supra* note 21, at 3876; WPATH Guidelines, *supra* note 21, at S47–S49.

is tailored to the patient's individual needs.

The Guidelines do *not* recommend that prepubertal children with gender dysphoria receive gender-affirming medical care or surgeries.[23] Before an *adolescent* may receive any gender-affirming medical care for treating gender dysphoria, the Guidelines collectively provide that a qualified HCP must thoroughly evaluate the adolescent in consultation with a pediatric endocrinologist or other clinician experienced in pubertal assessment for puberty blockers,[24] and in conjunction with a pediatric endocrinologist or other clinician experienced in pubertal induction for hormone therapy.[25]

B. Scientific Evidence Indicates the Effectiveness of Treating Gender Dysphoria According to the Guidelines.

Multiple studies indicate that adolescents with gender dysphoria who receive gender-affirming medical care experience improvements in their overall well-being.[26] A number of studies have been published that investigated the use of puberty blockers on adolescents with gender dysphoria,[27] and/or the use of hormone

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[23] *See* WPATH Guidelines, *supra* note 21, at S64, S67; Endocrine Soc'y Guidelines, *supra* note 21, at 3871.

[24] Endocrine Soc'y Guidelines, *supra* note 21, at 3878 tbl.5.

[25] *Id.*

[26] *See* Martin, *supra* note 6, at 2.

[27] *See, e.g.*, Christal Achille et al., *Longitudinal Impact of Gender-Affirming Endocrine Intervention on the Mental Health and Wellbeing of Transgender Youths:* (continued…)

therapy to treat adolescents with gender dysphoria,[28] and find positive mental health

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Preliminary Results, 8 INT'L J PEDIATRIC ENDOCRINOLOGY 1–5 (2020), https://perma.cc/K5SR-EE3G; Polly Carmichael et al., *Short-Term Outcomes of Pubertal Suppression in a Selected Cohort of 12 to 15 Year Old Young People with Persistent Gender Dysphoria in the UK*, 16 PLOS ONE e0243894 (2021), https://doi.org/10.1371/journal.pone.0243894; Rosalia Costa et al., *Psychological Support, Puberty Suppression, and Psychosocial Functioning in Adolescents with Gender Dysphoria*, 12 J. SEXUAL MED. 2206–2214 (2015), https://pubmed.ncbi.nlm.nih.gov/26556015; Annelou L.C. de Vries et al., *Puberty Suppression In Adolescents With Gender Identity Disorder: A Prospective Follow-Up Study*, 8 J. SEXUAL MED. 2276–2283 (2011), https://pubmed.ncbi.nlm.nih.gov/20646177; Annelou L.C. de Vries et al., *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*, 134 PEDIATRICS 696–704 (2014), https://pubmed.ncbi.nlm.nih.gov/25201798; Laura E. Kuper, et al., *Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy*, 145 PEDIATRICS e20193006 (2020), https://perma.cc/2HAT-GGFV; Jack L. Turban et al., *Pubertal Suppression For Transgender Youth and Risk of Suicidal Ideation*, 145 PEDIATRICS e20191725 (2020), https://perma.cc/B2UZ-YR3Q; Anna I.R. van der Miesen, *Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared with Cisgender General Population Peers*, 66 J. ADOLESCENT HEALTH 699–704 (2020); Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, 5 JAMA NETWORK OPEN e220978 (2022), https://perma.cc/SBF4-B4D4.

[28] *See, e.g.*, Achille, *supra* note 27, at 1–5; Luke R. Allen et al., *Well-Being and Suicidality Among Transgender Youth After Gender-Affirming Hormones*, 7 CLINICAL PRAC. PEDIATRIC PSYCH. 302 (2019), https://psycnet.apa.org/record/2019-52280-009; Diane Chen et al., *Psychosocial Functioning in Transgender Youth after 2 Years of Hormones*, 388 NEW ENG. J. MED 240-50 (2023), https://www.nejm.org/doi/10.1056/NEJMoa2206297; Diego Lopez de Lara et al., *Psychosocial Assessment in Transgender Adolescents*, 93 ANALES DE PEDIATRIA 41–48 (English ed. 2020), https://perma.cc/AQ4G-YJ85; de Vries, *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*, *supra* note 27; Rittakerttu Kaltiala et al., *Adolescent Development and Psychosocial Functioning After Starting Cross-Sex Hormones for Gender Dysphoria*, 74 NORDIC J. PSYCHIATRY 213 (2020), https://doi.org/10.1080/08039488.2019.1691260; (continued…)

outcomes for those adolescents, including statistically significant reductions in anxiety, depression, and suicidal ideation.[29]

For example, a 2020 study found that those who received puberty blocking treatment had lower odds of lifetime suicidal ideation than those who wanted puberty blocking treatment but did not receive it, even after adjusting for demographic variables and level of family support.[30] Approximately *nine in ten* transgender adults who wanted puberty blocking treatment but did not receive it reported lifetime suicidal ideation.[31] Additionally, a longitudinal study of nearly 50 transgender adolescents found that suicidality was decreased by a statistically significant degree after receiving gender-affirming hormone treatment.[32] A study published in January 2023, following 315 participants age 12 to 20 who received gender-affirming

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Kuper, *supra* note 27; Amy E. Green et al., *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, J. ADOLESCENT HEALTH (2021), https://doi.org/10.1016/j.jadohealth.2021.10.036; Jack L. Turban et al., *Access to Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, J. PLOS ONE (2022), https://doi.org/10.1371/journal.pone.0261039.

[29] The data likewise indicates that adults who receive gender-affirming care experience positive mental health outcomes. *See, e.g.*, Zoe Aldridge et al., *Long Term Effect of Gender Affirming Hormone Treatment on Depression and Anxiety Symptoms in Transgender People: A Prospective Cohort Study*, 9 ANDROLOGY 1808–1816 (2021), https://perma.cc/543U-HL5P.

[30] *See id.*

[31] *See id.*

[32] *See* Allen, *supra* note 28.

hormone treatment, found that the treatment was associated with decreased symptoms of depression and anxiety.[33]

A study of adolescents with gender dysphoria published in 2011 found that treatment with puberty blockers was associated with decreased depression and improved overall functioning.[34] A six-year follow-up study of 55 individuals from the 2011 study found that subsequent treatment with hormone therapy followed by surgery in adulthood was associated with a statistically significant decrease in depression and anxiety.[35] "Remarkably, this study demonstrated that these transgender adolescents and young adults had a sense of well-being that was equivalent or superior to that seen in age-matched controls from the general population."[36]

As scientists and researchers, *amici* always welcome more research, including on this crucial topic. However, the available data indicate that the gender-affirming medical care prohibited by the Healthcare Ban is effective for the treatment of gender

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[33] *See* Chen et al., *supra* note 28.

[34] *See* de Vries, *Puberty Suppression in Adolescents with Gender Identity Disorder: A Prospective Follow-Up Study*, *supra* note 27.

[35] de Vries, *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*, *supra* note 27.

[36] Stephen M. Rosenthal, *Challenges in the Care of Transgender and Gender-Diverse Youth: An Endocrinologist's View*, 17(10) Nature Rev. Endocrinology 581, 586 (2021).

dysphoria.

III. The Healthcare Ban Would Irreparably Harm Many Adolescents with Gender Dysphoria by Denying Them the Treatment They Need.

If enforced, the Healthcare Ban would prevent adolescents with gender dysphoria in Florida from accessing medical care that is designed to improve health outcomes and alleviate suffering, and that is grounded in science and endorsed by the medical community. As discussed in Part II.C, research shows that adolescents with gender dysphoria who receive puberty blockers and/or hormone therapy experience less depression, anxiety, and suicidal ideation. Several studies have found that hormone therapy is associated with reductions in the rate of suicide attempts and significant improvement in quality of life.[37] In light of this evidence supporting the connection between lack of access to gender-affirming medical care and lifetime suicide risk, granting a stay and permitting the Healthcare ban to go into effect would put patients' lives at risk.

CONCLUSION

For the foregoing reasons, this Court should deny Appellants' Motion for Stay.

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[37] *See* M. Hassan Murad et al., *Hormonal Therapy and Sex Reassignment: A Systematic Review and Meta-Analysis of Quality of Life and Psychosocial* (continued…)

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Respectfully submitted,

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Outcomes, 72 Clinical Endocrinology 214 (2010), https://onlinelibrary.wiley.com/doi/10.1111/j.1365-2265.2009.03625.x; *see also* Chen et al., *supra* note 28; Turban et al., *supra* note 28.

CERTIFICATE OF SERVICE

I hereby certify that foregoing Brief was served by electronic service upon counsel of record on August 5, 2024.

/s/ Cortlin H. Lannin
Cortlin H. Lannin

CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the type-volume limitations set forth in Fed. R. App. P. 32(a)(7)(B)(i). This brief contains 2,593 words, including all headings, footnotes, and quotations, and excluding the parts of the response exempted under Fed. R. App. P. 32(f).

2. In addition, this brief complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

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